IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.10.2006

Coram

The Honourable Mr.Justice P.D.DINAKARAN
and
The Honourable Mr.Justice P.P.S.JANARTHANA RAJA

T.C.(A) No.2451 of 2006

Commissioner of Income-Tax
Salem. ... Appellant

Vs.

M/s.Attur Agricultural Producers
Cooperative Marketing Society Ltd.,
363, Kamarajnagar Road
Pudupet, Attur-636 141. ... Respondent

PRAYER: Appeal under Section 260A of the Income-Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras 'C' Bench, dated 6.1.2006 made in I.T.A. No.689/Mds/2001 for the assessment year 1996-1997 (ITA No.828/99-2000 dagted 30.1.2001 on the file of the Commissioner of Income-Tax (Appeals), Chennai-34 against PAN/GIR No.T.620/JCIT/SR/SLM dated 23.12.1998 on the file of the Joint Commissioner of Income-Tax, Special Range, Salem-636 007).

For Appellant : Mr.J.Narayanaswamy
Jr. Standing Counsel for I.T.

J U D G M E N T

(Delivered by P.D.DINAKARAN, J.)

The above tax case is directed against the order of the Income-tax Appellate Tribunal made in I.T.A.No. 689/Mds/2001, dated 6.1.2006 with reference to the assessment year 1996-1997.

2. The Revenue is the appellant. The assessee is a co-operative society engaged in the marketing of agricultural products. The assessee advanced loans to its members and received interest therefrom. The assessee had claimed deduction under Section 80P(2)(a)(i) of the Income Tax Act and the Assessing Officer negatived the claim of the assessee as the primary objective of the assessee is not that of the credit society that is engaged in the business of banking. On appeal, by the assessee, the Commissioner of Income tax (Appeals), following the appellate order for the assessment years

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1993-94 and 1994-95 held that the assessee is entitled to deduction in respect of interest income received on advances made to his customers for the purpose of deduction under Section 80P of the Income Tax Act. The said order of the Commissioner of Income Tax (Appeals), on appeal by the Revenue, was confirmed by the Tribunal.

3. Exasperated, the Revenue has preferred this appeal by raising the following substantial question of law:-

> "Whether in the facts and under the circumstances of the case, the Tribunal was right in holding that the respondent Co-operative Society which is engaged in the marketing of the agricultural produce is eligible for the benefit of Section 80P(2)(a)(i) of the Income Tax Act in respect of the interest received from members ?"

4. It is fairly conceded by the learned counsel appearing for the Revenue that the issue raised in the above question is squarely covered against the Revenue by the judgment of this Court dated 12.12.2005 made in T.C.No.54 of 2001 (The Commissioner of Income Tax, Coimbatore v. The Salem Co-operative Sugar Mills Ltd., Salem), wherein the Division Bench of this Court, taking note that the prime object of the assessee therein is running a sugar mill, and that the object clause or/and the business activities of the assessee therein is also granting loans and advances to the members, held that the assessee therein is entitled to exemption under Section 80P(2)(a)(i) of the Income Tax Act. The said decision was also followed in the judgment dated 2.1.2006 made in T.C.(A) No.1627 of 2005 (Commissioner of Income Tax, Chennai v. The Madurantakam Co-operative Sugar Mills Ltd., Chengai Anna District).

5. In view of the above settled proposition of law, we hold that the respondent Co-operative Society which is engaged in the marketing of the agricultural produce is eligible for the benefit of Section 80P(2)(a)(i) of the Income Tax Act in respect of the interest received from members.

Finding no substantial question of law arises for consideration, the appeal stand dismissed.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To:

1. The Assistant Registrar,
   Income-tax Appellate Tribunal,
   Rajaji Bhavan, Besant Nagar,
   Chennai 600 090

2. The Commissioner of Income-tax (Appeals),
   Chennai.

3. The Commissioner of Income Tax
   Salem.

4.The Joint Commissioner of Income-Tax,
Special Range, Salem-636 007

+1cc to Mr.N.Muralikumaran, Advocate Sr 50149

JRG (CO)
km/24.11.

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